



**Washington State
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April 17, 2006

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AWVSP Team Office

The Honorable David J. Della
Seattle City Councilmember
PO Box 34025
Seattle, WA 98124-4025

Dear Mr. Della:

Thank you for your letter dated March 23, 2006, about state funding for the Alaskan Way Viaduct and Seawall Replacement Project.

As matters now stand, the state legislature has committed \$ 2 billion to the funding of the project.

In your letter you inquire **“as to whether the state would provide any funding for a *no replacement option* [emphasis supplied] of this critical piece of SR 99.”**

The “no replacement option” you ask about bears some resemblance to the “surface alternative” identified in the Draft Environmental Impact Statement (DEIS). That surface alternative provided three traffic lanes in each direction in the corridor. However, our understanding is that the “no replacement option” you have suggested contemplates only two lanes in each direction remaining on the surface. It therefore would provide a lower traffic capacity in the corridor than the surface alternative considered in the DEIS.

This section of SR 99 is designated as a highway of statewide significance and is on the National Highway System. Your letter recognizes an important consideration about the overall role of the SR 99 corridor: any material reduction in capacity on the SR 99 corridor will result in increased congestion on the I-5 corridor through Seattle. The legislature has in its treatment for funding for the project clearly indicated its understanding that the SR 99 corridor must continue to provide necessary capacity to continue to serve as a regional transportation corridor.

- 1) The issue of the roadway capacity of SR 99 was taken up in 2004 when the legislature and the governor enacted the Transportation Funding bill, ESHB 2474. Section 302(15) of the bill read:

“Funding provided by this act for the Alaskan Way Viaduct project shall not be spent for preliminary engineering, design, right of way acquisition, or construction on the project if it could have the effect of reducing roadway capacity on that facility.”

The adoption of this language by the legislature is clear indication that an alternative -- such as the surface alternative then included in the DEIS or, even more clearly, the "no replacement option" discussed today -- would not be what the legislature had in mind for the expenditure of funds.

- 2) Since the publication of the DEIS in March 2004, the lead agencies in the NEPA process (FHWA, WSDOT and the City of Seattle) have concluded that the surface alternative would not meet the project's purpose which is to "maintain or improve mobility, accessibility, and traffic safety for people and goods along the existing Alaskan Way Viaduct Corridor." Since December 2004, only two alternatives have been carried forward for further NEPA review, an elevated replacement structure and a tunnel replacement structure. The 2005 Transportation Partnership Act (TPA) (ESSB 6091) provided \$2 billion to fund the "Alaskan Way Viaduct and Seawall Replacement Project." The 2005 TPA commitment therefore was made at a time when alternatives had been narrowed to the two choices that preserved existing capacity. Absent a clear indication in the legislation of a contrary understanding, the legislature would be presumed to have acted with that current environmental review process in mind.
- 3) The 2006 legislature enacted additional legislation related to the viaduct and SR 520 projects. ESHB 2871 established an expert review panel to review both projects. The work of the expert review panel was at the legislature's specific direction focused on the alternatives described in the Draft Environmental Impact Statement. Again, this explicit reflection of the legislature's understanding is clear indication that the legislature did not have a materially different project such as the "no replacement option" in contemplation in carrying forward the funding commitment.

Recently the Division Administrator for the Federal Highway Administration specifically addressed the issue of maintaining capacity on SR 99 as a condition of the use of *federal funds* allocated to the project. The United States Congress has earmarked the sum of \$220 million expressly for "replacement" of the Alaskan Way Viaduct and Seawall. The Regional Administrator concluded that "If something other than 'replacement' is proposed Congress would have to change the language to allow these earmarked funds to be used." He noted that "a major concern with an alternative that does not maintain existing capacity of the Alaskan Way Viaduct is the significant impact to and likely degradation of Interstate 5 which is not acceptable." We see, therefore, in the federal approach the same point of view that the state legislature has adopted.

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In conclusion, we believe that the legislature's commitment of state funding for the project is grounded in the understanding that the project to be supported will materially replace the capacity in the existing corridor. Neither the surface alternative evaluated in the DEIS (three surface lanes in each direction) or the even lower capacity "no replacement" option (two lane surface lanes in each direction) meets that intent. Therefore we believe that the funding now committed by the legislature is not available for the "no replacement" option. In order to change this conclusion, additional and explicit legislative action would, in our option, be required.

Sincerely,

A handwritten signature in cursive script, appearing to read "Douglas B. MacDonald".

Douglas B. MacDonald
Secretary of Transportation

DBM:jaa

cc: Dave Dye, WSDOT, TB85-95